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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Richard S. Myers
Jay N. Lazrus+
William R. Layton+

+ Admitted to Maryland only

EX PARTE OR LATE FILED

**MYERS KELLER
COMMUNICATIONS LAW GROUP**

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WASHINGTON, D.C. 20005
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HTTP://WWW.MYERSKELLER.COM

James J. Keller*
Abdoul K. Traore*

*Communications engineer
(Non-lawyer)

November 9, 1998

VIA HAND DELIVERY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

Re: SouthEast Telephone, Inc.
Documents To Be Associated With Record
Petition for Reconsideration, FCC 98-290

Dear Ms. Salas:

On behalf of SouthEast Telephone, Inc. ("SouthEast"), we are transmitting copies of documents to be associated with the record in the proceeding referenced above. The documents include:

- Letter to Karen Gulick, Legal Advisor to Commissioner Gloria Tristani (dated November 6, 1998)
- Letter to Daniel Connors, Legal Assistant to Commissioner Susan Ness (dated November 6, 1998)
- Letter to Ari Fitzgerald, Legal Advisor to Chairman William Kennard (dated November 6, 1998)
- Letter to Paul Misner, Legal Advisor to Commissioner Harold Furchgott-Roth (dated November 6, 1998)
- Letter to Peter Tenhula, Legal Advisor to Commissioner Michael Powell (dated November 6, 1998)
- Letter to Secretary, FCC (dated November 4, 1998)

No. of Copies rec'd
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Ms. Magalie Roman Salas, Secretary
November 9, 1998
Page 2

- Videotape submitted to Commissioners on November 6, 1998

Please date stamp the enclosed file copies and return them to the courier for delivery to our office.
If you have any questions, please telephone me at (202) 898-5706.

Very truly yours,

A handwritten signature in black ink, appearing to read "William R. Layton", with a stylized flourish at the end.

William R. Layton

Enclosures

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Richard S. Myers

Jay N. Lazrus+

William R. Layton+

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Friday, November 06, 1998

VIA COURIER

Ms. Karen Gulick

Legal Advisor to Commissioner Gloria Tristani

Federal Communications Commission

1919 M Street, NW, Room 826

Washington DC, 20554

James J. Keller*

Abdoul K. Traore*

*Communications engineer
(Non-lawyer)

Re: SOUTHEAST TELEPHONE, INC.

Dear Karen:

Thank you for meeting with Darrell Maynard (President of SouthEast Telephone, Inc.), Richard Myers and I yesterday.

Enclosed are two copies of a videotape produced by AirNet, the equipment manufacturer that has supplied SouthEast's PCS system which has been deployed in rural Kentucky. The video features SouthEast Telephone, including footage of its system and offices in Kentucky as well as an interview with Mr. Maynard. Also enclosed is a copy of a letter from Representative Hal Rogers that was faxed to the Commission yesterday. Both of these items are being made part of the record in this proceeding.

We have met with the legal advisors to all of the Commissioners. The concern shared by the Commissioners forming the majority that dismissed SouthEast's waiver request to give it 60 days to make its payment is that the Commission does not have the resources to handle the work load that would be created in dealing with waiver requests.

Our point is that the Commission's work load cannot justify the majority's refusal to give SouthEast's waiver request the "hard look" required by WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1959). Once the Commission entertained SouthEast's waiver request, and set forth the standard that must be met to receive a waiver, it was obligated to give SouthEast's request a "hard look" and not perfunctory treatment. The

Ms. Karen Gulick
Friday, November 06, 1998
Page 2

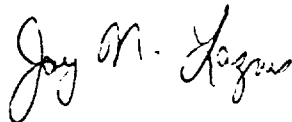
majority's opinion, however, opted for perfunctory treatment, addressing none of the specific allegations and supporting data submitted by SouthEast, but merely lumping it together with other parties who either have not constructed systems or had the money on hand to make their payments. It is the Commission's obligation to "articulate with clarity and precision its findings and the reasons for its decisions." Wait Radio 418 F.2d at 1157.

It should be further noted that SouthEast's petition for reconsideration argues that the Administrative Procedure Act prohibits the Commission from applying the automatic cancellation rule retroactively to SouthEast at all, an issue SouthEast plans to vigorously litigate before the United States Court of Appeals, if necessary. (See Functional Music v. FCC, 274 F.2d 543,546 (D.C. Cir. 1959).

At the same time, we have also expressed the view that SouthEast's petition for reconsideration would be mooted in a scenario where its Request for Stay is granted and its payment is made within 60 days and prior to Commission action on the petition. This scenario would also imply no filing with respect to the Commission's Order with the United States Court of Appeals.

We remain available to further discuss SouthEast's case at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay N. Lazrus". The signature is written in a cursive, flowing style.

Jay N. Lazrus

Enclosures

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James J. Keller*
Abdoul K. Traore*

*Communications engineer
(Non-lawyer)

Friday, November 06, 1998

VIA COURIER

Mr. Daniel Connors, Legal Assistant to Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW, Room 862
Washington DC, 20554

Dear Dan:

Re: SOUTHEAST TELEPHONE, INC.

Thank you for meeting with Darrell Maynard (President of SouthEast Telephone, Inc.), Richard Myers and I yesterday.

Enclosed are two copies of a videotape produced by AirNet, the equipment manufacturer that has supplied SouthEast's PCS system which has been deployed in rural Kentucky. The video features SouthEast Telephone, including footage of its system and offices in Kentucky as well as an interview with Mr. Maynard. Also enclosed is a copy of a letter from Representative Hal Rogers that was faxed to the Commission yesterday. Both of these items are being made part of the record in this proceeding.

We have met with the legal advisors to all of the Commissioners. The concern shared by the Commissioners forming the majority that dismissed SouthEast's waiver request to give it 60 days to make its payment is that the Commission does not have the resources to handle the work load that would be created in dealing with waiver requests.

Our point is that the Commission's work load cannot justify the majority's refusal to give SouthEast's waiver request the "hard lock" required by WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1959). Once the Commission entertained SouthEast's waiver request, and set forth the standard that must be met to receive a waiver, it was

Mr. Dan Connors
Friday, November 06, 1998
Page 2

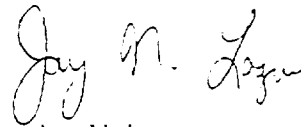
obligated to give SouthEast's request a "hard look" and not perfunctory treatment. The majority's opinion, however, opted for perfunctory treatment, addressing none of the specific allegations and supporting data submitted by SouthEast, but merely lumping it together with other parties who either have not constructed systems or had the money on hand to make their payments. It is the Commission's obligation to "articulate with clarity and precision its findings and the reasons for its decisions." Wait Radio 418 F.2d at 1157.

It should be further noted that SouthEast's petition for reconsideration argues that the Administrative Procedure Act prohibits the Commission from applying the automatic cancellation rule retroactively to SouthEast at all, an issue SouthEast plans to vigorously litigate before the United States Court of Appeals, if necessary. (See Functional Music v. FCC, 274 F.2d 543,546 (D.C. Cir. 1959).

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We remain available to further discuss SouthEast's case at your convenience.

Very truly yours,



Jay N. Lazrus

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James J. Keller*
Abdoul K. Traore*

*Communications engineer
(Non-lawyer)

Friday, November 06, 1998

VIA COURIER

Mr. Ari Fitzgerald
Legal Advisor to Chairman Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington DC, 20554

Dear Ari:

Re: SOUTHEAST TELEPHONE, INC.

Thank you for meeting with Darrell Maynard (President of SouthEast Telephone, Inc.), Richard Myers and I yesterday.

Enclosed are two copies of a videotape produced by AirNet, the equipment manufacturer that has supplied SouthEast's PCS system which has been deployed in rural Kentucky. The video features SouthEast Telephone, including footage of its system and offices in Kentucky as well as an interview with Mr. Maynard. Also enclosed is a copy of a letter from Representative Hal Rogers that was faxed to the Commission yesterday. Both of these items are being made part of the record in this proceeding.

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Mr. Ari Fitzgerald
Friday, November 06, 1998
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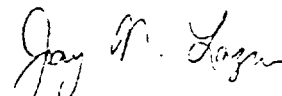
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Jay N. Lazrus

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James J. Keller*
Abdoul K. Traore*

*Communications engineer
(Non-lawyer)

Friday, November 06, 1998

VIA COURIER

Mr. Paul Misener
Legal Advisor to Commissioner Furchgott-Roth
Federal Communications Commission
1919 M Street, NW, Room 802
Washington DC, 20554

Dear Paul:

Re: SOUTHEAST TELEPHONE, INC.

Thank you for meeting with Darrell Maynard (President of SouthEast Telephone, Inc.), Richard Myers and I yesterday.

Enclosed are two copies of a videotape produced by AirNet, the equipment manufacturer that has supplied SouthEast's PCS system which has been deployed in rural Kentucky. The video features SouthEast Telephone, including footage of its system and offices in Kentucky as well as an interview with Mr. Maynard. Also enclosed is a copy of a letter from Representative Hal Rogers that was faxed to the Commission yesterday. Both of these items are being made part of the record in this proceeding.

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Mr. Paul Misener
Friday, November 06, 1998
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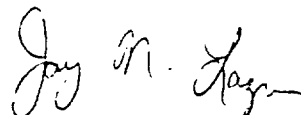
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Friday, November 06, 1998

VIA COURIER

Mr. Peter Tenhula

Legal Advisor to Commissioner Powell

Federal Communications Commission

1919 M Street, NW, Room 844

Washington DC, 20554

Dear Peter:

Re: SOUTHEAST TELEPHONE, INC.

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Mr. Peter Tenhula
Friday, November 06, 1998
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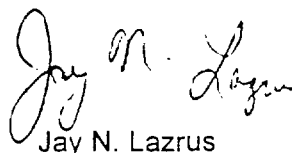
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Jay N. Lazrus

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